

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 87 be amended to read as follows:

1 Page 3, between lines 10 and 11, begin a new paragraph and insert:
2 "SECTION 2. IC 27-8-5.2 IS ADDED TO THE INDIANA CODE
3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2009]:

5 **Chapter 5.2. Payment to Noncontracted Providers**

6 **Sec. 1. The definitions in IC 27-8-11-1 apply throughout this**
7 **chapter.**

8 **Sec. 2. As used in this chapter, "contracted provider" means a**
9 **provider that has entered into an agreement with an insured under**
10 **IC 27-8-11-3.**

11 **Sec. 3. As used in this chapter, "emergency" means a medical**
12 **condition that arises suddenly and unexpectedly and manifests**
13 **itself by acute symptoms of such severity, including severe pain,**
14 **that the absence of immediate medical attention could reasonably**
15 **be expected by a prudent layperson who possesses an average**
16 **knowledge of health and medicine to:**

- 17 (1) place an individual's health in serious jeopardy;
18 (2) result in serious impairment to the individual's bodily
19 functions; or
20 (3) result in serious dysfunction of a bodily organ or part of
21 the individual.

22 **Sec. 4. As used in this chapter, "noncontracted provider" means**
23 **a provider that has not entered into an agreement with an insurer**
24 **under IC 27-8-11-3.**

25 **Sec. 5. If an insured receives a covered health care service**
26 **provided:**

- 27 (1) by a noncontracted provider in a hospital or an
28 ambulatory surgical center licensed under IC 16-21-2; and
29 (2) in an emergency;

30 **and the noncontracted provider submits the claim for the**
31 **emergency covered health care service on the appropriate insurer**

1 claim form, the insurer shall make a benefit payment directly to
 2 the noncontracted provider for the covered health care service and
 3 send written notice of the payment to the insured or the authorized
 4 representative of the insured.

5 Sec. 6. If an insured receives a covered health care service
 6 provided:

7 (1) by a noncontracted provider who is an anesthesiologist, a
 8 pathologist, or a radiologist; and

9 (2) in a hospital or an ambulatory surgical center that is:

10 (A) licensed under IC 16-21-2; and

11 (B) a contracted provider;

12 the insurer shall make a benefit payment directly to the
 13 noncontracted provider for the covered health care service and
 14 send written notice of the payment to the insured or the authorized
 15 representative of the insured.

16 Sec. 7. If an insurer makes a payment to an insured for a
 17 covered health care service provided by a noncontracted provider,
 18 the insurer shall include a disclosure with the payment instrument
 19 that instructs the insured to forward the payment to the
 20 noncontracted provider if the insured has not paid the
 21 noncontracted provider in full. The notice must include the
 22 following information:

23 (1) The claims covered by the payment instrument.

24 (2) The amount paid by the insurer for each claim.

25 (3) Any amount for a claim that is the insured's responsibility.

26 (4) A statement in at least 14 point type that:

27 (A) instructs the insured to forward the payment to the
 28 noncontracted provider;

29 (B) specifies that paying the noncontracted provider is the
 30 insured's responsibility; and

31 (C) states that failure to make the payment violates the law
 32 and may result in collection proceedings.

33 Sec. 8. (a) Except as provided in subsection (b), a noncontracted
 34 provider or the noncontracted provider's agent shall disclose to an
 35 insured in writing the following applicable information:

36 (1) That the noncontracted provider has not entered into an
 37 agreement with the insurer under IC 27-8-11-3 to provide
 38 health care services to the insured.

39 (2) That the insured may be billed for health care services for
 40 which payment is not made by the insurer.

41 If the disclosure described in this subsection is included in a
 42 document containing consent for treatment, the disclosure must be
 43 displayed conspicuously.

44 (b) A disclosure is not required under this section if any of the
 45 following apply:

46 (1) The insured is unconscious, incoherent, or incompetent.

47 (2) The insured:

48 (A) arrives at a hospital required to provide emergency

1 medical screening or care under 42 U.S.C. 1395dd; and

2 (B) seeks emergency medical screening or care.

3 (3) The noncontracted provider does not know and could not
4 reasonably know that the insured is covered under a policy
5 issued by an insurer with which the noncontracted provider
6 has not entered into an agreement for the delivery of health
7 care services.

8 (4) The noncontracted provider has been requested to render
9 health care services to the insured after the insured has been
10 admitted for inpatient or outpatient services and the
11 noncontracted provider's services were not part of the
12 original treatment plan.

13 Sec. 9. This chapter does not prevent an insurer from
14 voluntarily issuing a direct payment to a noncontracted provider.".

15 Page 4, delete lines 9 through 42, begin a new paragraph and insert:
16 "SECTION 4. IC 27-13-36.4 IS ADDED TO THE INDIANA CODE
17 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2009]:

19 **Chapter 36.4. Payment to a Nonparticipating Provider**

20 Sec. 1. As used in this chapter, "emergency" means a medical
21 condition that arises suddenly and unexpectedly and manifests
22 itself by acute symptoms of such severity, including severe pain,
23 that the absence of immediate medical attention could reasonably
24 be expected by a prudent layperson who possesses an average
25 knowledge of health and medicine to:

- 26 (1) place an individual's health in serious jeopardy;
- 27 (2) result in serious impairment to the individual's bodily
- 28 functions; or
- 29 (3) result in serious dysfunction of a bodily organ or part of
- 30 the individual.

31 Sec. 2. As used in this chapter, "nonparticipating provider"
32 means a provider that has not entered into an agreement with a
33 health maintenance organization to serve as a participating
34 provider.

35 Sec. 3. If an enrollee receives a covered health care service
36 provided:

- 37 (1) by a nonparticipating provider in a hospital or an
- 38 ambulatory surgical center licensed under IC 16-21-2; and
- 39 (2) in an emergency;

40 and the nonparticipating provider submits the claim for the
41 emergency covered health care service on the appropriate health
42 maintenance organization claim form, the health maintenance
43 organization shall make a benefit payment directly to the
44 nonparticipating provider for the covered health care service and
45 send written notice of the payment to the enrollee or the authorized
46 representative of the enrollee.

47 Sec. 4. If an enrollee receives a covered health care service
48 provided:

(1) by a nonparticipating provider who is an anesthesiologist, a pathologist, or a radiologist; and

(2) in a hospital or an ambulatory surgical center that is:

(A) licensed under IC 16-21-2; and

(B) a contracted provider;

the health maintenance organization shall make a benefit payment directly to the nonparticipating provider for the covered health care service and send written notice of the payment to the enrollee or the authorized representative of the enrollee.

Sec. 5. If a health maintenance organization makes a payment to an enrollee for a covered health care service provided by a nonparticipating provider, the health maintenance organization shall include a disclosure with the payment instrument that instructs the enrollee to forward the payment to the nonparticipating provider if the enrollee has not paid the nonparticipating provider in full. The notice must include the following information:

(1) The claims covered by the payment instrument.

(2) The amount paid by the health maintenance organization for each claim.

(3) Any amount for a claim that is the enrollee's responsibility.

(4) A statement in at least 14 point type that specifies that paying the nonparticipating provider is the enrollee's responsibility and that failure to make the payment violates the law and may result in collection proceedings.

Sec. 6. (a) Except as provided in subsection (b), a nonparticipating provider or the nonparticipating provider's agent shall disclose to an enrollee in writing the following applicable information:

(1) That the nonparticipating provider has not entered into an agreement with the health maintenance organization to provide health care services to the enrollee.

(2) That the enrollee may be billed for health care services for which payment is not made by the health maintenance organization.

If the disclosure is included in a document containing consent for treatment, the disclosure must be displayed conspicuously.

(b) A disclosure is not required under this section if any of the following apply:

(1) The enrollee is unconscious, incoherent, or incompetent.

(2) The enrollee:

(A) arrives at a hospital required to provide emergency medical screening or care under 42 U.S.C. 1395dd; and

(B) seeks emergency medical screening or care.

(3) The nonparticipating provider does not know and could not reasonably know that the enrollee is covered by a health maintenance organization with which the nonparticipating

1 provider has not entered into an agreement for the delivery of
2 health care services.

3 (4) The nonparticipating provider has been requested to
4 render health care services to the enrollee after the enrollee
5 has been admitted for inpatient or outpatient services and the
6 nonparticipating provider's services were not part of the
7 original treatment plan.

8 Sec. 7. This chapter does not prevent a health maintenance
9 organization from voluntarily issuing a direct payment to a
10 nonparticipating provider.".

11 Delete page 5.

12 Renumber all SECTIONS consecutively.

(Reference is to SB 87 as printed February 20, 2009.)

Senator MILLER